

BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation against:)

FRANK TZONG-HWAI LEE)

348 Camphor Avenue)

Fremont, CA 94539)

Civil Engineer License No. C 34975,)

Respondent.)

Case No. 939-A

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board for Professional Engineers, Land Surveyors, and Geologists as its Decision in the above-entitled matter.

This Decision shall become effective on April 29, 2011.

IT IS SO ORDERED March 24, 2011.

Original Signed

BOARD FOR PROFESSIONAL ENGINEERS,
LAND SURVEYORS, AND GEOLOGISTS
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 NICHOLAS TSUKAMAKI
Deputy Attorney General
4 State Bar No. 253959
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1188
6 Facsimile: (415) 703-5480
E-mail: Nicholas.Tsukamaki@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 939-A

12 **FRANK TZONG-HWAI LEE**
13 **348 Camphor Avenue**
Fremont, CA 94539
14 **Civil Engineer License No. C 34975**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. David E. Brown ("Complainant") is the Executive Officer of the Board for
21 Professional Engineers and Land Surveyors ("Board"). He brought this action solely in his
22 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the
23 State of California, and by Nicholas Tsukamaki, Deputy Attorney General.

24 2. Respondent Frank Tzong-Hwai Lee ("Respondent") is representing himself in this
25 proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about August 18, 1982, the Board issued Civil Engineer License No. C 34975
27 to Respondent. The Civil Engineer License was in full force and effect at all times relevant to the
28

1 charges brought in Accusation No. 939-A and will expire on September 30, 2011, unless
2 renewed.

3 JURISDICTION

4 4. Accusation No. 939-A was filed before the Board and is currently pending against
5 Respondent. The Accusation and all other statutorily required documents were properly served
6 on Respondent on August 12, 2010. Respondent timely filed his Notice of Defense contesting the
7 Accusation. A copy of Accusation No. 939-A is attached as exhibit A and incorporated herein by
8 reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read and understands the charges and allegations in
11 Accusation No. 939-A. Respondent has also carefully read and understands the effects of this
12 Stipulated Settlement and Disciplinary Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the right to a
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
15 his own expense; the right to confront and cross-examine the witnesses against him; the right to
16 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
17 the attendance of witnesses and the production of documents; the right to reconsideration and
18 court review of an adverse decision; and all other rights accorded by the California
19 Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
21 every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. 939-A.

25 9. Respondent agrees that his Civil Engineer License is subject to discipline and he
26 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
27 below.

28 ///

1 CONTINGENCY

2 10. This stipulation shall be subject to approval by the Board. Respondent understands
3 and agrees that counsel for Complainant and the staff of the Board may communicate directly
4 with the Board regarding this stipulation and settlement without notice to or participation by
5 Respondent. By signing the stipulation, Respondent understands and agrees that he may not
6 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
7 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
8 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
9 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
10 be disqualified from further action by having considered this matter.

11 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
12 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
13 effect as the originals.

14 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
15 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
16 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
17 negotiations, and commitments, written or oral. This Stipulated Settlement and Disciplinary
18 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
19 writing executed by an authorized representative of each of the parties.

20 13. In consideration of the foregoing admissions and stipulations, the parties agree that
21 the Board may, without further notice or formal proceeding, issue and enter the following
22 Disciplinary Order:

23 DISCIPLINARY ORDER

24 IT IS HEREBY ORDERED that Civil Engineer License No. C 34975 issued to Respondent
25 Frank Tzong-Hwai Lee ("Respondent") is revoked. However, the revocation is stayed and
26 Respondent is placed on probation for five (5) years on the following terms and conditions.

27 1. **Obey All Laws.** The Respondent shall obey all federal, state, and local laws and
28 regulations related to the practices of professional engineering and professional land surveying.

1 2. **Submit Reports.** The Respondent shall submit such special reports as the Board may
2 require.

3 3. **Tolling of Probation.** The period of probation shall be tolled during the time
4 Respondent is practicing exclusively outside the state of California. If, during the period of
5 probation, Respondent practices exclusively outside the state of California, Respondent shall
6 immediately notify the Board in writing.

7 4. **Violation of Probation.** If Respondent violates the probationary conditions in any
8 respect, the Board, after giving Respondent notice and the opportunity to be heard, may vacate
9 the stay and reinstate the disciplinary order which was stayed. If, during the period of probation,
10 an accusation or petition to vacate stay is filed against Respondent, or if the matter has been
11 submitted to the Office of the Attorney General for the filing of such, the Board shall have
12 continuing jurisdiction until all matters are final, and the period of probation shall be extended
13 until all matters are final.

14 5. **Completion of Probation.** Upon successful completion of all of the probationary
15 conditions and the expiration of the period of probation, Respondent's license shall be
16 unconditionally restored.

17 6. **Cost Recovery.** Within four and one-half (4 ½) years of the effective date of the
18 decision, Respondent shall reimburse the Board for its investigative and enforcement costs in this
19 matter in the amount of \$4,931.04. Said reimbursement may be paid in installments. Failure to
20 reimburse the Board's cost of its investigation and prosecution shall constitute a violation of the
21 probation order.

22 7. **Ethics Course.** Within four and one-half (4 ½) years of the effective date of the
23 decision, Respondent shall successfully complete and pass a course in professional ethics
24 approved in advance by the Board or its designee.

25 8. **Civil Engineering Courses.** Within four and one-half (4 ½) years of the effective
26 date of the decision, Respondent shall successfully complete and pass three (3) college-level
27 courses specifically related to civil engineering.

28 9. **Notification.** Within thirty (30) days of the effective date of the decision,

1 Respondent shall provide the Board with evidence that he has provided all persons or entities with
2 whom he has a contractual or employment relationship relating to professional civil engineering
3 services with a copy of the decision and order of the Board and shall provide the Board with the
4 name and business address of each person or entity required to be so notified. During the period
5 of probation, Respondent may be required to provide the same notification to each new person or
6 entity with whom he has a contractual or employment relationship relating to professional civil
7 engineering services, and shall report to the Board the name and address of each person or entity
8 so notified.

9 ACCEPTANCE

10 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
11 stipulation and the effect it will have on my Civil Engineer License. I enter into this Stipulated
12 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
13 bound by the Decision and Order of the Board for Professional Engineers and Land Surveyors.

14
15 DATED:

1/19/11

Original Signed

FRANK TZONG-HWAI LEE
Respondent

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Dated: January 21, 2011

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

Original Signed
NICHOLAS TSUKAMAKI
Deputy Attorney General
Attorneys for Complainant

SF2010200768

Exhibit A

Accusation No. 939-A